



PATENT
Attorney Docket No. 204526

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Kovesdi et al.

Application No. 09/599,997

Filed: June 23, 2000

For: VIRAL VECTOR ENCODING
PIGMENT EPITHELIAL DERIVED
FACTOR

Art Unit: 1636

Examiner: McKelvey, T.

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Office Action dated September 27, 2001, please consider the following remarks.

REMARKS

Restriction Requirement and Election

The Office has set forth a restriction requirement. In particular, the Office Action has set forth one group of claims, e.g., claims 1-37, drawn to a viral vector (class 435, subclass 320.1) and requires Applicants to elect a "single invention" which is the viral vector drawn to one specific virus to which the claims are to be restricted. Applicants elect, with traverse, claims 1-37, wherein the viral vector is an adenoviral vector.

The Office has also set forth an election of species requirement. Applicants elect, with traverse, a viral vector comprising a nucleic acid sequence encoding pigment epithelium-derived factor operably linked to a CMV promoter (e.g., claim 14), wherein the viral vector comprises a nucleic acid sequence encoding the trans-acting factor HSV ICP0 (e.g., claim 15) and an additional nucleic acid sequence encoding an anti-angiogenic substance (e.g., claim 24). Reconsideration of the requirement for restriction and election of species is respectfully requested.

Discussion of the Restriction Requirement

There are two separate criteria for a proper requirement for restriction between patentably distinct inventions: (i) the inventions must be independent or distinct as claimed,

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